

Claims 1, 2, 4, and 5 were rejected under the provisions of 35 U.S.C. §102 as being clearly anticipated by Wiktor.

Claims 3 and 6 were rejected under the provisions of 35 U.S.C. §103 as being unpatentable over Wiktor in view of Yoshioka et al.

THE REFERENCES:

U.S. Patent No. 4,969,458, Wiktor, discloses a coiled wire stent which is a "tubular shape of coiled wire wound in a special manner comprising a number of groups of turns 2." (Col. 4, ll. 27-28). "[I]ndividual coils are evenly spaced so that when expanded, the stent 1 will provide an even support inside the vessel 8..." (Col. 4, ll. 37-39).

The journal article of Yoshioka et al. discloses an endovascular graft "constructed by wrapping an expandable nylon mesh around a framework of Gianturco self-expanding metallic stents." "Three or four stents were connected in tandem by metallic struts constructed from the same wire."

RESPONSE TO REJECTIONS AND OBJECTIONS:

Reconsideration of this application is respectfully requested. Applicant notes the Examiner's objection to the drawings, and in particular the requested labeling of FIGS. 1A, 1B, and 3-6 as Prior Art. Upon the indication of allowable subject matter, Applicant will label the drawings as requested by the Examiner.

With respect to the Examiner's treatment of Claim 1 concerning the Amendment filed on December 20, 1990,

Applicant appreciates the Examiner's cooperation in treating line 13 of Claim 1 as being the subject of the Amendment of December 20, 1990. To further clarify this fact, Applicant has so amended Claim 1 in this Amendment.

With respect to the rejection of Claims 1-6 under the provisions of 35 U.S.C. §112, Applicant submits that such rejection is improper and should be withdrawn for the following reasons. Claims 1 and 4 are directed to grafts and prostheses which have "only one connector member disposed between adjacent thin-walled tubular members." Thus, if the prior art illustrate "only one connector member in combination with the other claimed structure of Claims 1 and 4, Claims 1 and 4 should be rejected. All that Applicant has done in connection with the remarks contained in the Amendment filed on December 20, 1990, is to notify the Examiner of what Applicant's position is as to what should be construed as an equivalent structure for purposes of examining the present claims.

For example, if two adjacent tubular members of Applicant's claimed construction are flexibly connected by two connector members which are disposed relatively close and adjacent to one another about the circumference of the tubular shaped members, those two connector members would likely be equivalent to Applicant's single claimed connector member. For example, two thin flexible connector members which are radially spaced about the circumference of the tubular members between an angle of between 0 and 45 degrees, would likely function as Applicant's claimed "only one connector member". In contrast, two connector members radially disposed 180 degrees apart from one another would not function as Applicant's claimed "only one connector

member", and would thus not be within the scope of Applicant's claims.

Applicant is merely attempting to make of record its belief as to what the scope of protection, by way of a Doctrine of Equivalents analysis, Applicant's claims should be entitled to. In this regard, Applicant submits that, as will hereinafter be discussed in greater detail, none of the prior art references discloses Applicant's claimed subject matter of "only one connector member" with the term of "only one" having its normal, dictionary meaning, nor Applicant's suggested meaning for that word under a Doctrine of Equivalents analysis.

Applicant would submit that making of record its position as to a Doctrine of Equivalents analysis of his claims does not constitute the introduction of new matter into the application, nor does it give rise to a 35 U.S.C. §112, second paragraph rejection. All Applicant is doing is placing into the record, at this time, his present view of what would be, at this time, a Doctrine of Equivalents analysis of his claims, instead of setting forth his position during infringement proceedings in the future, if necessary, on this issue.

For the foregoing reasons, Applicant respectfully requests the withdrawal of the rejection of Claims 1-6 under the provisions of 35 U.S.C. §112.

With respect to the rejection under the provisions of 35 U.S.C. §102 of Claims 1, 2, 4, and 5 as being "clearly anticipated by Wiktor, Applicant submits that this rejection is improper and should be withdrawn for the following

reasons. Wiktor is simply not responsive to the claimed structural limitations of Claims 1 and 4. Wiktor does not disclose a plurality of "thin-walled tubular members, each having first and second ends and a wall surface disposed between the first and second ends, the wall surface having a substantially uniform thickness and a plurality of slots formed therein, the slots being disposed substantially parallel to the longitudinal axis of each tubular member". Wiktor discloses a single stent, or graft made up of coiled wire. There is no wall surface having a plurality of slots, nor slots disposed parallel to the longitudinal axis of each tubular member. Applicant's claimed invention is not "coiled wire wound in a special manner comprised of a number of groups of turns" as illustrated in Wiktor. Accordingly, Applicant respectfully requests the withdrawal of the rejection of Claims 1, 2, 4, and 5 under the provisions of 35 U.S.C. §102 as being anticipated by Wiktor.

With respect to the rejection of Claims 3 and 6 under the provisions of 35 U.S.C. §103 as being unpatentable over Wiktor in view of Yoshioka et al., Applicant submits that this rejection is improper and should be withdrawn for the following reasons. At the outset, Applicant takes issue with whether or not the Yoshioka et al. article is prior art as against the present application for two different reasons. Firstly, the article on its face does not bear a date prior to Applicant's effective filing date. Applicant does not dispute that the Examiner has called "the publisher" of the journal; however, Applicant submits that it is pure hearsay as to when the October 1988 edition was first made available to the public. There are no documents which evidence a publication date prior to Applicant's effective filing date. Applicant's second ground for objecting to the use of the

Yoshioka et al. article is that the article does not disclose the subject matter for which the Examiner relies upon this article. All Yoshioka et al. has to say about connecting stents is that they "were connected in tandem by metallic struts constructed from the same wire." The article does not say how many metallic struts were utilized, where they were connected, their angular disposition, whether or not they were flexible, or any other details of construction. For the foregoing reasons, Wiktor should not be used as a reference against Applicant's claims.

Assuming that Yoshioka et al. can be used as a reference, the rejection is still deficient for the following reasons. Neither Wiktor nor Yoshioka et al. discloses a plurality of "thin-walled tubular members, each having first and second ends and a wall surface disposed between the first and second ends, the wall surface having a substantially uniform thickness and a plurality of slots formed therein, the slots being disposed substantially parallel to the longitudinal axis of each tubular member" and "only one connector member being disposed between adjacent tubular members to flexibly connect the adjacent members".

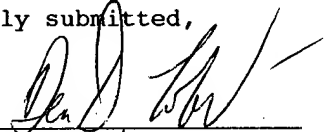
Furthermore, with respect to Claims 3 and 6, Applicant is not claiming "bending" of the graft, but the disposition of first and second connector members whereby they are angularly offset from one another and with respect to the longitudinal axes of the tubular members they interconnect as illustrated in FIGS. 7 and 8 and as discussed at lines 2-7 of page 24 of the specification.

In summary, with respect to the rejection based upon Wiktor and Yoshioka et al., assuming Yoshioka et al. is properly available as a reference, neither of these

references discloses the particular claimed tubular members which are flexibly connected by only one connector member as claimed by Applicant. Accordingly, Applicant submits that this rejection should be withdrawn, and such action is respectfully requested.

In view of the foregoing amendment and comments, Applicant respectfully requests that all of the claims of this application be allowed.

Respectfully submitted,



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